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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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RAY SAPP,
Inmate Booking No. 6465306,

Plaintiff.

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vs.

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SAN DIEGO COUNTY SHERIFF'S
DEPARTMENT; SAN DIEGO COUNTY
JAIL.

Defendants.

Civil No. 08-0465 L (WMc)

ORDER:

(1) DISMISSING CIVIL ACTION AS DUPLICATIVE PURSUANT TO 28 U.S.C. § 1915A(b)(1); and

(2) DENYING MOTION TO PROCEED *IN FORMA PAUPERIS* AND MOTION TO APPOINT COUNSEL AS MOOT
[Doc. Nos. 2, 3]

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Plaintiff, an inmate currently incarcerated at the George Bailey Detention Facility located in San Diego, California and proceeding pro se, has filed a civil rights Complaint pursuant to 42 U.S.C. §1983. Plaintiff has not prepaid the \$350 filing fee mandated by 28 U.S.C. § 1914(a); instead, he has filed a Motion to Proceed *In Forma Pauperis* (“IFP”) pursuant to 28 U.S.C. § 1915(a) [Doc. No 2], along with a Motion to Appoint Counsel [Doc. No. 3].

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1 **I. Sua Sponte Screening Pursuant to 28 U.S.C. § 1915A(b)**

2 The Prison Litigation Reform Act (“PLRA”), 28 U.S.C. § 1915A, obligates the Court to
 3 review complaints filed by anyone “incarcerated or detained in any facility who is accused of,
 4 sentenced for, or adjudicated delinquent for, violations of criminal law or the terms or conditions
 5 of parole, probation, pretrial release, or diversionary program,” “as soon as practicable after
 6 docketing” and regardless of whether the prisoner prepays filing fees or moves to proceed IFP.
 7 *See* 28 U.S.C. § 1915A(a), (c). The Court must sua sponte dismiss prisoner complaints, or any
 8 portions thereof, which are frivolous, malicious, or fail to state a claim upon which relief may
 9 be granted. 28 U.S.C. § 1915A(b); *Resnick v. Hayes*, 213 F.3d 443, 446-47 (9th Cir. 2000).

10 Plaintiff’s instant Complaint is subject to sua sponte dismissal pursuant to 28 U.S.C.
 11 § 1915A(b)(1) because it appears to be duplicative of a case Plaintiff is already litigating.
 12 Plaintiff’s Complaint contains identical claims that are found in *Sapp v. San Diego County*
 13 *Sheriff’s Department*, S.D. Cal. Civil Case No. 08cv0271 JAH (POR). A court “may take notice
 14 of proceedings in other courts, both within and without the federal judicial system, if those
 15 proceedings have a direct relation to matters at issue.” *United States ex rel. Robinson Rancheria*
 16 *Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992).

17 A prisoner’s complaint is considered frivolous under 28 U.S.C. § 1915A(b)(1) if it
 18 “merely repeats pending or previously litigated claims.” *Cato v. United States*, 70 F.3d 1103,
 19 1105 n.2 (9th Cir. 1995) (construing former 28 U.S.C. § 1915(d)) (citations and internal
 20 quotations omitted). Because Plaintiff is already litigating the same claims presented in the
 21 instant action in *Sapp v. San Diego County Sheriff’s Department*, S.D. Cal. Civil Case No.
 22 08cv0271 JAH (POR), the Court hereby **DISMISSES** Civil Case No. 08cv0465 L (WMc)
 23 pursuant to 28 U.S.C. § 1915A(b)(1). *See Cato*, 70 F.3d at 1105 n.2; *Resnick*, 213 F.3d at 446
 24 n.1.

25 **II. Conclusion and Order**

26 Good cause appearing, **IT IS HEREBY ORDERED** that:

27 (1) Plaintiff’s Complaint in Civil Case No. 08cv0465 L (POR) is **DISMISSED** as
 28 frivolous pursuant to 28 U.S.C. § 1915A(b)(1).

1 **IT IS FURTHER ORDERED** that:

2 (2) Plaintiff's Motion to Proceed IFP [Doc. No. 2] and Motion to Appoint Counsel are
3 **DENIED** as moot.

4 The Clerk shall close the file.

5 **IT IS SO ORDERED.**

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7 DATED: June 10, 2008

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9 M. James Lorenz
United States District Court Judge

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